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cancel.

18 (amended). A biodegradable plant shell according to claim 16 wherein the components are present in approximately the following approximate percentages by volume:

southern pine bark: 70%  
peat moss: 10%  
manure: 10%  
top soil: 10%

#### REMARKS

The application was filed with claims 1-18. Claims 1-18 remain in the application. In the present amendment, the dependency of claims 17 and 18 has been changed from claim 10 to claim 16 in order to correct an error in the application. The Examiner's indication of allowable subject matter in claims 4, 10, 12, 13, and 16-18 is acknowledged with thanks. Claims 1-3, 5-9, 11, 14, and 15 stand rejected under 35 USC §103(a). These rejections are respectfully traversed.

#### REJECTIONS UNDER 35 USC §103(a)

Claims 1-3, 14, and 15 stand rejected under 35 USC §103(a) as being unpatentable over Beatty in view of Schimmerling. This rejection is respectfully traversed. The references do not disclose the present invention, and there is no combination suggested or possible that would disclose the claimed invention.

The present invention comprises a plant shell formed of particulate organic materials and having side walls of substantial thickness, with the particulate material being held together by being molded in the presence of a water responsive glue. The particulate walls permit water and root penetration through the walls and decompose rapidly in the presence of water. The organic materials and nutrients in the container walls provide initial nutrition for the plant until it becomes established.

The primary reference, Beatty, is completely different from the present invention. While Beatty discloses a plant receptacle, the receptacle walls are thin (1/16 – 1/8 inch, in Example 1, column 8, line 53), and are formed by molding and baking a dough formed at least in part from shredded tissue paper (column 3, line 42). The resultant product is designed to be “hard and tough as shoe leather” (column 8, line 55). Moreover, the walls are impregnated with a biocide, not nutrients.

This construction does not disclose or suggest either the product or use of the present invention. The walls of Beatty, like prior art peat moss shells, are thin and are not formed of porous particulate material having substantial thickness.

The secondary Schimmerling reference does not supply any of the deficiencies of Beatty, and there is nothing in either reference that suggests any reason for combining teachings of these references.

Schimmerling discloses a window box formed of unworked cork. The cork, while organic, is not in the form of a glued or compressed particulate material. Neither is Beatty. Nor are the walls of Schimmerling disclosed to be decomposable in water and there is no disclosure of root penetrable characteristics. In fact, decomposition in the presence of water or semi-porous walls would seem to be contrary to the desired structure of Schimmerling.

All of the disallowed claims contain one or more features that are not present in either or both of the cited references. Accordingly, withdrawal of the rejection and allowance of all of the claims in the application is respectfully requested.

With specific regard to claims 5-9 and 11, these claims stand rejected under 35 USC §103(a) as being unpatentable over Beatty in view of Schimmerling as applied to claims 1-3 and further in view of Bellucci, et al. '935. This rejection is respectfully traversed. There is no motivation found in the references for combining the Bellucci '935 reference with the teaching of

Beatty and Schimmerling. Beatty teaches directly away from the methods used in Bellucci. Beatty teaches impregnating a formed container with biocides while Bellucci teaches placing a mat impregnated with any one of a number of nutrients on top of the soil surface around a plant. Even if the combination were to be made, however untenable, it would still not reach the claimed invention.

As cited above, the combination of Beatty and Schimmerling does not disclose the inclusion of a constituent of a particulate organic base material as required by claim 1, from which claims 5-9 and 11 depend. For this reason, claims 5-9 and 11 are allowable. Withdrawal of the rejection and reexamination and reconsideration of the claims are respectfully requested.

#### CONCLUSION

In light of the foregoing remarks, it is respectfully requested that the rejection of claims 1-3, 5-9, 11, 14 and 15 be withdrawn. It is further requested that the claims be reexamined and reconsidered. Early notice of allowability is respectfully requested.

Should the Examiner have any questions regarding this matter, please feel free to telephone the undersigned at (616) 458-7535.

Respectfully Submitted,

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Marked Claims

17. A biodegradable plant shell according to claim [10] 16 wherein the components are present in the following percentages by volume:

southern pine bark and/or rice hulls: 50 to 100%  
peat moss: 0 to 30%  
manure: 0 to 30%  
top soil: 0 to 30%

18. A biodegradable plant shell according to claim [10]16 wherein the components are present in approximately the following approximate percentages by volume:

southern pine bark: 70%  
peat moss: 10%  
manure: 10%  
top soil: 10%